

10A 2981 DIV

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

SHIGERU HATAKENAKA

Serial No: 09/618,306

Filed: July 18, 2000

For: VINEGAR USING SEA WATER AND  
SEASONING THEREOF

Examining Group: 1700

Attention: Ms. Freda Nelson

**RECEIVED**  
**CENTRAL FAX CENTER****APR 11 2006**RESPONSECommissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

On February 14, 2003, Applicant filed a divisional application under 37 CFR 1.53(d) and attached hereto is a copy of that request. On April 1, 2004, the undersigned received a communication from Ms. Freda Nelson of Examining Group 1700 dated March 26, 2004 and the notice indicated that the divisional application filed on February 14, 2003 was an improper Request for Continued Examination (RCE) and a copy of that communication is attached hereto.

The undersigned reviewed this notice and determined that it was improper and immediately called Ms. Freda Nelson of Examining Group 1700 and referred her to the copy of the request which indicates that it was clearly a divisional application under 37 CFR 1.53(d). Ms. Nelson agreed with the undersigned and stated that the notice was improperly sent.

The undersigned then asked Ms. Nelson if Applicant needed to do anything further to reply to this notice and was assured by Ms. Nelson that nothing else was required and that she would withdraw this notice. Apparently, the Examiner in charge of this case at the time, namely Adam Meyers of Art Unit 1761, did not receive any such notice of withdrawal and on October 20, 2005 abandoned the above-identified application for failure to respond to the notice of improper Request for Continued Examination, a copy of which is attached hereto and which was downloaded from the USPTO website. Apparently, this notice of abandonment was sent to the wrong address and the undersigned and Applicant discovered this holding of abandonment on



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/618,306	07/18/2000	Shigeru Hatakenaka	10A 2981	9513

7590

03/26/2004

KODA AND ANDROLIA  
2029 CENTURY PARK EAST  
SUITE 3850  
LOS ANGELES, CA 90067-3024

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APP - 1 2004

KODA &amp; ANDROLIA

EXAMINER

SHERRER, CURTIS EDWARD

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 03/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



Commissioner for Patents  
United States Patent and Trademark Office  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NUMBER FILING DATE

FIRST NAMED APPLICANT

ATTY. DOCKET NO./TITLE

09/618, 306

DATE MAILED:

## NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)

The request for continued examination (RCE) under 37 CFR 1.114 filed on 02/14/03 is improper for reason(s) indicated below:

- ☐ 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☐ 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☒ 3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
- ☐ 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
- ☐ 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on \_\_\_\_\_. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
- ☐ 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
- ☐ 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

**Note:** If a request for a continued prosecution application (CPA) under 37 CFR 1.53(d) has been filed in the utility or plant application (including a previously filed CPA) that was filed on or after May 29, 2000, the request for a CPA has been treated as a RCE because the CPA practice no longer applies to such application. The constructive RCE, however, is improper for reason(s) indicated above.

**A copy of this notice MUST be returned with any reply.**

Direct the reply and any questions about this notice to:

Ireda Nelson

Examining Group

1700

(703) 30

FORM PTO-2051 (Rev. 3/2001)

571-272-1035



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
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Alexandria, Virginia 22315-1459  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/618,306	07/18/2000	Shigeru Hatakenaka	10A 2981	9513

7590

10/20/2005

KODA AND ANDROLIA  
2029 CENTURY PARK EAST  
SUITE 3850  
LOS ANGELES, CA 90067-3024

EXAMINER

MYERS, ADAM C

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 10/20/2005


Please find below and/or attached an Office communication concerning this application or proceeding.

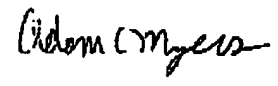
<b>Notice of Abandonment</b>	Application No.	Applicant(s)	
	09/618,306	HATAKENAKA, SHIGERU	
	Examiner	Art Unit	
	Adam C. Myers	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

- ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 26 March 2004.
  - ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - ☒ No reply has been received.
- ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - ☐ The issue fee and publication fee, if applicable, has not been received.
- ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - ☐ No corrected drawings have been received.
- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☐ The reason(s) below:

  
**DREW BECKER**  
**PRIMARY EXAMINER**  
107705



Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

<b>Interview Summary</b>	Application No.	Applicant(s)	
	09/618,308	HATAKENAKA, SHIGERU	
	Examiner	Art Unit	
	Adam C. Myers	1761	

All participants (applicant, applicant's representative, PTO personnel):

(1) Adam C. Myers.

(3) William Androlia.

(2) Milton Cano. SPE 1761.

(4) \_\_\_\_\_

Date of Interview: 14 October 2005.

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.  
If Yes, brief description: \_\_\_\_\_

Claim(s) discussed: 9.

Identification of prior art discussed: \_\_\_\_\_

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Mr. Androlia was called to inquire whether a response to the office action of March 26, 2004 had been filed. Mr. Androlia indicated that no response had been filed.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Adam C. Myers  
Examiner's signature, if required